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9 Fiserv, Inc.

10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA

12 AMERICAN RESIDENTIAL EQUITIES,
13 LLC,

14 Plaintiff,

15 vs.

16 DEL MAR DATATRAC, INC and FISERV,
17 INC.,

18 Defendants.

No.: 08-cv-00545-BEN (POR)

**JOINT MOTION TO EXTEND TIME
TO RESPOND TO COMPLAINT;
DECLARATION OF CHRISTOPHER
O. RIVAS IN SUPPORT THEREOF**

[Order Submitted Concurrently Herewith]

The Honorable Louisa S Porter

REED SMITH LLP

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1 Defendants Del Mar Datatrac, Inc and Fiserv, Inc. (collectively "Defendants"), with
2 the consent of plaintiff American Residential Equities, LLC, hereby move this Court for an
3 order extending the time for Defendant to file a responsive pleading to April 28, 2008.

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5 This action was initiated by plaintiff ("Plaintiff") on January 3, 2008 in the United
6 States District Court for the Southern District of Florida. On February 15, 2008, Defendants
7 moved the United States District Court for the Southern District of Florida court for an order
8 transferring venue of this action to the United States District Court for the Southern District
9 of California. Defendants' motion was granted on March 12, 2008, and the action was
10 ordered transferred to the United States District Court for the Southern District of California.
11 The venue transfer appears to have been effected by the United States District Court for the
12 Southern District of California on March 24, 2008.

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14 Defendants response to the Complaint is due within 20 days of the effective date of
15 transfer of this action, and thus may expire on April 14, 2008. The transfer has required both
16 parties to obtain California counsel, and for those counsel to become familiar with the case;
17 that process is currently occurring. We understand that plaintiff may have obtained
18 California counsel but have not been advised who that is. This also constitutes good cause
19 for the extension, as we have been unable to contact Plaintiff's counsel here in California to
20 understand their position or even whether they are continuing to pursue this action. Plaintiff,
21 through its Florida counsel, Michael J. Greene, agrees that a two week extension to April 28,
22 2008, is appropriate. This is the parties' first request for an extension before this Court.

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24 Although Defendants requested that Mr. Greene sign a stipulation agreeing to this
25 extension, Mr. Greene has been unavailable to sign such stipulation (or joint motion). As
26 noted above, we have not been advised as to the identity of California counsel. As such,
27 Defendants' counsel submits a declaration with this Joint Motion, attesting that Plaintiff has
28 agreed to this extension.

1 In light of the foregoing, the parties hereby agree that Defendants should be granted
2 an extension up to, and including April 28, 2008, to respond to Plaintiff's Complaint.
3 Accordingly, Defendants hereby respectfully request that the Court issue an order extending
4 the time to April 28, 2008 for Defendants to file a responsive pleading to the Complaint.
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8 DATED: April 11, 2008

REED SMITH LLP

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10 By /s Christopher O. Rivas
11 Christopher O. Rivas
12 Attorneys for Defendants
13 DEL MAR DATATRAC, INC,
14 AND FISERV, INC.
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DECLARATION OF CHRISTOPHER O. RIVAS

I, Christopher O. Rivas, declare as follows:

1. I am an associate of the law firm of Reed Smith LLP, which represents defendants Del Mar Datatrac, Inc and Fiserv, Inc. in this matter. I am duly admitted to practice law before all courts in the State of California and am in good standing. If called as a witness, I could and would testify of my own personal knowledge as follows.

2. On April 4, 2008, I left a telephone message for Michael J. Greene, Florida counsel for plaintiff American Residential Equities, LLC ("Plaintiff"), to request an extension of time for Defendants to file a response to Plaintiff's complaint.

3. On April 7, 2008, Mr. Greene called Wendy H. Schwartz, a partner in Reed Smith LLP's New York office who also represents defendants in this matter, and agreed to a two week extension of time for Defendants to respond to Plaintiff's Complaint.

4. During that call, Mr. Greene informed Ms. Schwartz that he was not aware of the identify of Plaintiff's California counsel, and that he would be in contact with me regarding the agreed extension.

5. On April 10, not having heard anything further from Mr. Greene, I called and left Mr. Greene another telephone message regarding his signature on a joint motion to extend Defendants' response date. At that time, I also sent Mr. Greene an email on the same subject.

6. As of April 11, the date of the filing of this Joint Motion, I have not heard any response from Mr. Greene about his signature to this Motion. However, having obtained Mr. Greene's verbal consent to an extension, I am hereby filing this motion as a "Joint Motion," as the

1 deadline for responding without an extension may expire as early as the coming Monday, April 14,
2 2008.

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4 I swear under penalty of perjury under the laws of the State of California that the
5 foregoing is true and correct. Executed this 11th day of April, 2008 at Los Angeles,
6 California.

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8 /s/ Christopher O. Rivas
Christopher O. Rivas
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PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. I am employed in the office of a member of the bar of this court at whose direction the service was made. My business address is REED SMITH, 355 South Grand Avenue, Suite 2900, Los Angeles, CA 90071. On April 11, 2008, I served the following document(s) by the method indicated below:

**JOINT MOTION TO EXTEND TIME TO RESPOND TO
COMPLAINT; DECLARATION OF CHRISTOPHER O. RIVAS IN
SUPPORT THEREOF; AND [PROPOSED] ORDER**

by transmitting via facsimile on this date from fax number 213.457.8080 the document(s) listed above to the fax number(s) set forth below. The transmission was completed before 5:00 p.m. and was reported complete and without error. The transmission report, which is attached to this proof of service, was properly issued by the transmitting fax machine. Service by fax was made by agreement of the parties, confirmed in writing.

☒ by causing the document(s) listed above to be placed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing of correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in this Declaration.

☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

☐ by placing the document(s) listed above in a sealed envelope(s) and consigning it to an express mail service (*via UPS*) for guaranteed delivery on the next business day following the date of consignment to the address(es) set forth below. A copy of the consignment slip is attached to this proof of service.

☐ by transmitting via e-mail to the parties at the email addresses listed below:

SEE ATTACHED SERVICE LIST

I declare under penalty of perjury under the laws of the United States that the above is true and correct. Executed on April 11, 2008, at Los Angeles, California.

/s/ Christopher O. Rivas
Christopher O. Rivas

SERVICE LIST FOR ENTERED ORDER

AMERICAN RESIDENTIAL EQUITIES, LLC,
v.
DEL MAR DATATRAC, INC and FISERV, INC.,
Case No. 08-cv-00545-BEN (POR)

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NO CM/ECF FILERS

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COUNSEL FOR PLAINTIFF

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